The Tallahassee Democrat

November 16, 2003 Sunday

HEADLINE: From Everglades to us;
Lower-court ruling runs downhill

BYLINE: A TALLAHASSEE DEMOCRAT EDITORIAL

BODY:

Municipal water utilities from Tallahassee to Los Angeles, the irrigation systems of farmers and water-moving systems of public agencies nationwide could feel the ripples of a rock thrown into a pond by the Miccosukee Tribe, which wants to slow down the Everglades cleanup.

The tribe sued to delay the biggest environmental public works project in world history, saying a federal Clean Water Act permit is needed to move water out of a canal in western Broward County.

The U.S. Supreme Court in January will hear a request to overturn a lower-court ruling favoring the tribe's view.

The tribe contends that the South Florida Water Management District, which is overseeing the $8 billion Everglades cleanup, needs a CWA permit. These permits are intended to monitor industrial waste and pollutants, though the Broward County system moves clean water and no pollutants are incorporated at any point.

At stake is the setting of a national precedent that would not only stall the Everglades cleanup, but also add expense, monitoring complexity and bureaucratic paperwork to water moving systems like the city of Tallahassee's, which have long played by state and local environmental rules.

In its three decades, the CWA has never been applied to systems that move clean water. But if the court says it does, federal permitting will be required when, for example, drinking water is transferred in and among the 19 reservoirs that serve New York City, or when a small farmer in Idaho wants to put in an irrigation pipe.

Forty-nine organizations from the National League of Cities, Conference of State Legislatures and state attorneys general are imploring the court to clear up this misinterpretation. It too sweepingly corrects a problem that doesn't exist.